

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, “Determination of Net Income,” and Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

The Iowa General Assembly recently enacted 2015 Iowa Acts, chapter 137, which, in part, created the Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust allows individuals to contribute funds to qualified ABLE accounts on behalf of eligible individuals with disabilities. Funds in the account earn interest, and the beneficiaries of the accounts can use the funds to pay for future disability-related expenses. Contributing funds to the account, withdrawing funds from the account, and interest accrued on the account all have possible Iowa income tax consequences for either the person contributing or the designated beneficiary. The Department proposes new rule 701—40.81(422) to administer those income tax consequences.

2015 Iowa Acts, chapter 137, also provides that a decedent’s interest in an ABLE account is not subject to Iowa inheritance tax. The Department proposes new subrule 86.5(16), which will be added to rule 701—86.5(450), the rule that describes how to calculate the gross estate for Iowa inheritance tax purposes, to specify that the decedent’s interest in a qualified ABLE account is not included in the gross estate.

Interested persons may make written comments on the proposed amendments on or before July 26, 2016. Written comments on the proposed amendments should be directed by mail to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to ben.clough@iowa.gov. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, by telephone at (515)725-2176 or in person at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 26, 2016.

The Department finds that the Iowa ABLE savings plan will reduce income tax revenue and local option income surtax for schools revenue. The Office of the Treasurer of State estimates that the administrative costs for establishing the program will be significant. The impact of the program on inheritance taxes is assumed to be minimal.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that these amendments are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code chapter 121 and sections 422.7(34), 422.7(34A), and 450.4(9).

The following amendments are proposed.

ITEM 1. Adopt the following new rule 701—40.81:

701—40.81(422) Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust was created so that individuals can contribute funds on behalf of designated beneficiaries into accounts administered by the treasurer of state. The funds contributed to the trust may be used to cover future disability-related

expenses of the designated beneficiary. The funds contributed to the trust are intended to supplement, but not supplant, other benefits provided to the designated beneficiary by various federal, state, and private sources. The Iowa ABLE savings plan program is administered by the treasurer of state under the terms of Iowa Code chapter 12I. The following subrules provide details about how an individual's net income is affected by contributions to a beneficiary's account, by interest and any other earnings on a beneficiary's account, and by distributions of contributions which were previously deducted.

40.81(1) Definitions.

"Account owner" means an individual who enters into a participation agreement under Iowa Code chapter 12I for the payment of qualified disability expenses on behalf of a designated beneficiary.

"Designated beneficiary" means an individual who is a resident of this state or a resident of a contracting state and who meets the definition of "eligible individual" found in Section 529A of the Internal Revenue Code.

"Iowa ABLE savings plan trust" means a qualified ABLE program administered by the Iowa treasurer of state under the terms of Iowa Code chapter 12I.

"Other qualified ABLE program" refers to any qualified ABLE program administered by another state with which the Iowa treasurer of state has entered into an agreement under the terms of Iowa Code section 12I.10 (see subrule 40.81(2) below).

"Qualified ABLE program" means the same as defined in Section 529A of the Internal Revenue Code.

"Qualified disability expenses" means the same as defined in Section 529A of the Internal Revenue Code.

40.81(2) Contracting with other states. Iowa Code section 12I.10 allows the treasurer of state to choose to defer implementation of Iowa's own qualified ABLE program and instead enter into an agreement with another state that already has a qualified ABLE program, to provide Iowa residents access to that state's qualified ABLE program, provided that the other state's program meets the qualifications set out in Iowa Code section 12I.10(1).

40.81(3) Subtraction from net income for contributions made to the Iowa ABLE savings plan trust or other qualified ABLE program. For tax years beginning on or after January 1, 2016, individuals can subtract from their Iowa net income the amount contributed to the Iowa ABLE savings plan trust or other qualified ABLE program on behalf of a designated beneficiary during the tax year, subject to the maximum contribution level for that year.

40.81(4) Exclusion of interest and earnings on beneficiary accounts in the Iowa ABLE savings plan trust or other qualified ABLE program. For tax years beginning on or after January 1, 2016, to the extent that interest or other earnings accrue on an account in the Iowa ABLE savings plan trust or other qualified ABLE program (if the account owner is an Iowa resident), the interest or other earnings are excluded for purposes of computing net income on the designated beneficiary's Iowa individual income tax return.

40.81(5) Addition to net income of amounts distributed to the participant from the Iowa ABLE savings plan trust or other qualified ABLE program that had previously been deducted.

a. For tax years beginning on or after January 1, 2016, if a taxpayer, as an account owner, cancels the account owner's account in the Iowa ABLE savings plan trust or other qualified ABLE program and receives a distribution of the funds in the account, the amount of the distribution shall be included in net income on the account owner's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the account owner or any other person as a contribution to the Iowa ABLE savings plan trust or other qualified ABLE program.

b. For tax years beginning on or after January 1, 2016, if a taxpayer makes a withdrawal of funds previously deducted by the taxpayer or any other person from the Iowa ABLE savings plan trust or other qualified ABLE program for purposes other than the payment of qualified disability expenses, the amount of the withdrawal shall be included in net income on the taxpayer's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the taxpayer or any other person.

40.81(6) Maximum contribution level. The amount of the deduction available for an individual taxpayer each year for contributions on behalf of any one designated beneficiary to the Iowa ABLE

savings plan trust or other qualified ABLE program may not exceed the maximum contribution level for that year. The maximum contribution level is set by the treasurer of state. The maximum contribution level is indexed yearly for inflation pursuant to Iowa Code section 12D.3(1)“a.”

This rule is intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, chapter 137.

ITEM 2. Adopt the following **new** subrule 86.5(16):

86.5(16) *Qualified ABLE plans exempt.* Effective for estates of decedents dying on or after January 1, 2016, the value of the decedent’s interest in the Iowa ABLE savings plan trust is not subject to Iowa inheritance tax and therefore is not includable in the decedent’s gross estate for tax purposes. The value of the decedent’s interest in an ABLE savings program administered by another state with which the Iowa treasurer of state has entered into an agreement allowing Iowa residents to participate in the other state’s qualified ABLE program under the terms of Iowa Code section 12I.10 is also not subject to Iowa inheritance tax if the decedent is an Iowa resident. For more information on qualified plans administered by other states, see Iowa Code section 12I.10 and rule 701—40.81(422).

ITEM 3. Amend rule **701—86.5(450)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~422.7(4)~~ 422.7, 450.2, 450.3, 450.4(5), 450.8, 450.12, 450.37, 450.91, 633.699, and 633.703A and Iowa Code ~~Supplement~~ section 450.4 as amended by ~~2008 Iowa Acts, House File 2673, section 2~~ 2015 Iowa Acts, chapter 137.